

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EARL M. KOORNDYK, JR.,

Plaintiff,

vs.

MIDWAY MOTOR SALES, INC.,
MODERN BUILDERS SUPPLY, INC.,
GENERAL MOTORS ACCEPTANCE
CORPORATION, and MICHAEL JOSEPH
MERCURE,

Defendants.

_____ /

Case No. 1:04-cv-333

Hon. Hugh W. Brenneman, Jr.

ORDER

In accordance with the Opinion filed this date:

IT IS HEREBY ORDERED that defendants' motions to dismiss plaintiff's First Amended Complaint (docket nos. 58, 62 and 64) are **DENIED with prejudice** insofar as they seek dismissal of counts I, II, III, IV and V pursuant to Fed. Rules Civ. Proc. 9(b).

IT IS FURTHER ORDERED that defendants' motions to dismiss (docket nos. 58, 62 and 64) are **DENIED without prejudice** insofar as they seek dismissal of the state law claims asserted in counts II, III, IV and V.

Dated: July 28, 2005

/s/ Hugh W. Brenneman, Jr.
Hugh W. Brenneman, Jr.
United States Magistrate Judge